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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/674,684	09/29/2003	Allan I. Bain	554792000401

20872  
 MORRISON & FOERSTER LLP  
 425 MARKET STREET  
 SAN FRANCISCO, CA 94105-2482

CONFIRMATION NO. 5115

FORMALITIES LETTER



\*OC000000013545385\*

09/14/2004 MBIZUNES 00000085 031952 10674684

01 FC:1460 130.00 DA

Date Mailed: 08/16/2004

## NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) **Pages 53, 59, 61, 63, 64, 79, 91, 102 and 132** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the

references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*



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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Please type a plus sign inside this box → ☐

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/674,684	
	Filing Date	September 29, 2003	
	First Named Inventor	Allan I. BAIN	
	Group Art Unit	1626	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in This Submission	22	Attorney Docket Number	554792000401

**ENCLOSURES (check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form - 1 pg IN DUPL	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Response to NOTICE OF OMITTED ITEMS IN A NON-PROVISIONAL APPLICATION dated 8/16/04 - 3 pgs	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition - UNDER 35 CFR 1.53(e) to Show Receipt of Item(s) in Response to Notice of Omitted Item(s) - 3 pgs	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter - 1 pg
<input type="checkbox"/> Extension of Time Request - 1 pg	<input type="checkbox"/> Power of Attorney - 1 pg	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	1. Copy of NOTICE as required - 2 pgs
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	2. EXHIBIT A: copy of return receipt postcard mailed 9/29/03 (both sides) - 2 pgs
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s)	3. EXHIBIT B: copies of Specification pages 53, 59, 61, 63, 64, 79, 91, 102 and 132 - 9 pgs
<input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual Name	Michael R. Ward (Reg. No. 38,651) MORRISON & FOERSTER LLP	CUSTOMER 20872
Signature		
Date	September 10, 2004	

**CERTIFICATE OF EXPRESS MAIL**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, LABEL NO. EV 470 627 376 US on the date indicated below and is addressed to: COMMISSIONER FOR PATENTS, MS: MISSING PARTS, P.O. BOX 1450, Alexandria, VA 22313-1450 on the date indicated below.

Dated: September 10, 2004

Signature: (Lilia Olsen)

EV470627376US



PTO/SB/17 (10-03)  
Approved for use through 7/31/2008. OMB 0651-0032  
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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130.00

## Complete if Known

Application Number.	10/674,684
Filing Date	September 29, 2003
First Named Inventor	Allan I. BAIN
Examiner Name	Not Yet Assigned
Art Unit	1626
Attorney Docket No.	554792000401

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☒ Other ☐ None

☐ Deposit Account:

Deposit Account Number 03-1952

Deposit Account Name Morrison & Foerster LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
	- ** =	x	=
Independent Claims	- ** =	x	=
Multiple Dependent		=	=

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 00

\*\* or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

## SUBMITTED BY

Name (Print/Type) MICHAEL R. WARD

Registration No. (Attorney/Agent)

38,651

(Complete if applicable)

Telephone 415/268-6237

Signature

Michael R. Ward

Date

September 10, 2004



PATENT  
Docket No. 554792000401

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Dated: September 10, 2004

Signature: 

(Lillia Olsen)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Allen I. BAIN et al.

Serial No.: 10/674,684

Filing Date: September 29, 2003

For: ION CHANNEL MODULATING  
COMPOUNDS AND USES THEREOF

Examiner: Not Yet Assigned

Group Art Unit: 1626

**RESPONSE TO NOTICE OF  
OMITTED ITEM(S) IN A NON-  
PROVISIONAL APPLICATION dated  
August 16, 2004**

**MS: MISSING PARTS**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Notice of Omitted Items in a Non-provisional Application dated August 16, 2004, a response to which is due October 16, 2004. Accordingly, this response is timely filed.



EXHIBIT A

Atty Docket No.: 5547920000401

Inventor: Alan I. BAIN

Application No.: Not Yet Assigned

Filing Date: Concurrently Herewith

Title: ION CHANNEL MODULATING COMPOUNDS AND USES THEREOF

Documents Filed: Continuation of U.S. Appln. Serial No. 09/680,988

UTILITY Patent Application Transmittal - 2 pgs

FEE TRANSMITTAL - 1 pg IN DUPL

APPLICATION DATA SHEET - 6 pgs

PRELIMINARY AMENDMENT - 4 pgs

SPECIFICATION (copy from prior Appln) - 159 pgs

DECLARATION (copy from prior Appln) - 5 pgs

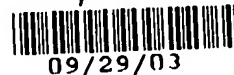
POWER OF ATTORNEY (courtesy copies of as filed POA) - 7 pgs

DRAWINGS - 5 SHEETS

22388 U.S. PTO

10/674684

\$750.00 AUTHORIZED TO BE CHARGED TO DEPOSIT ACCOUNT

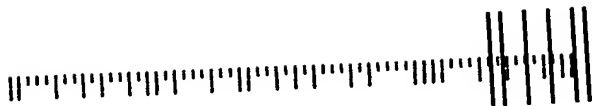


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Sender's Initials: MRW1/lxo3

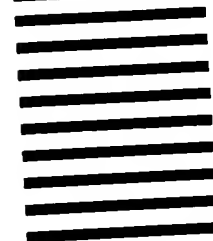
Date: September 29, 2003

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San Francisco CA 94105-2482

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